

REMARKS

Applicant has carefully reviewed the Office Action of January 25, 2005, and offers the following amendments and remarks in response thereto.

Applicant herein amends claims 1, 13, 16, 19, 31, 43 and 46 to recite that the routing node is configured to include a control plane, a compute plane, and a forward plane. Support for this amendment can be found on page 6, lines 23-25 of the specification. No new matter is added.

Claims 9, 11, 13, 27, 29, 30, 37, 38, 39, 44 and 45 have been amended to clarify antecedent basis issues. No new matter is added. Claim 19 is also amended to change the preamble to "system" rather than "method" in keeping with the nature of the claim. No new matter is added.

Claims 1-47 and 50 were rejected under 35 U.S.C. § 103 as being unpatentable over Denecheau et al. (hereinafter "Denecheau") in view of McCanne. Applicant respectfully traverses. For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where each and every element of the claim is shown in the combination of references. MPEP § 2143.03.

As amended, the independent claims all recite some permutation of the routing node configured to include a control plane, a compute plane, and a forward plane. The combination of record does not teach a routing node so configured. In particular, McCanne teaches an overlay router that provides application layer processing. However, McCanne has no details about the nature of the components of this overlay router and certainly does not describe a three plane router as claimed. Likewise, the routers of Denecheau do not have the three planes recited in the claims. If the Patent Office disagrees, Applicant requests that the Patent Office articulate where in either reference the three plane routing node is described. In the absence of such an identification, the references individually do not teach or suggest the claim element. Since the references individually do not teach or suggest the claim element, the combination of references cannot teach or suggest the claim element. Since the references in combination do not teach or suggest the claim element, the combination does not establish *prima facie* obviousness for the independent claims 1, 13, 16, 19, 31, 43 and 46.

Since the Patent Office has not established *prima facie* obviousness for the independent claims, dependent claims 2-12, 14, 15, 17, 18, 20-30, 32-42, 44, 45, 47 and 50 are likewise not obvious. Applicant requests withdrawal of the § 103 rejection of claims 1-47 and 50 at this time.

Claims 48 and 49 were rejected under 35 U.S.C. § 103 as being unpatentable over Denecheau and McCanne, and further in view of Chiu et al. (hereinafter "Chiu"). Applicant respectfully traverses. The standard for establishing obviousness is set forth above.

As explained above, Denecheau and McCanne do not teach or suggest the three plane routing node. The addition of Chiu does not cure this deficiency. Since the references individually do not teach or suggest this claim element, the combination of references cannot teach or suggest this claim element. Since the combination does not teach or suggest this claim element, the Patent Office has not established obviousness. Applicant requests withdrawal of the § 103 rejection of claims 48 and 49 at this time.

Applicant requests reconsideration of the rejections in light of the amendments and remarks presented herein. The references of record do not teach the three plane routing node recited in the claims. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By: 

Benjamin S. Withrow
Registration No. 40,876
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: April 25, 2005
Attorney Docker: 7000-047

<p align="center">CERTIFICATE OF TRANSMISSION</p> <p>I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED BELOW TO:</p> <p>Examiner: <u>Avi M. Gold</u> Art Unit: <u>2157</u> Fax: <u>703-872-9306</u></p> <p><u>REBECCA ROOKS</u> Name of Sender</p> <p><u>Rebecca Rooks</u> Signature</p> <p><u>4/25/05</u> Date of Transmission</p>
